IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Civil Application No.776 of 2005

In

First AppealNo.116 of 2001

Shri Ramesh Babu Kanade
since deceased through his legal
heirs and representatives:
1. Mrs.Neeta Ramesh Kanade
and Ors. ... Applicants

V/s

1. Shri Gajanan Narayan Naik
and Anr. ..Respondents

Shri S.R.Kudrolli for Applicants
Ms Artai Sane for Respondents

CORAM:D.G.DESHPANDE,J.

DATED:2nd March 2005

P.C.:-

. This application cum petition is filed by the legal heirs of original deceased Appellant Ramesh Babu Kanade for bringing them on record to prosecute further the appeal filed by the original Appellant. There is a delay of 20 months and 24 days in filing

this application. The advocate for the Insurance Company has strongly opposed this application on the ground that not a word is uttered by the Petitioners in this application as to how and why the delay occurred and no explanation of whatsoever is given for this delay. Therefore, according to her such an inordinate delay should not be condoned as a matter of course and if the Petitioners do not make out any case for indulgence of Court hence this application should be dismissed and appeal should be treated as abated.

. Against this submission the learned Advocate for the Petitioner contended that Respondent can be adequately compensated by costs. But Counsel for Respondent-Insurance Company contended that the cost would not be adequate because whatever is the amount of award in this case, near about 6 lacs was deposited by them and it has been withdrawn by the deceased Appellant. It is true that admittedly there is about 20 months and 24 days delay and absolutely nothing is said about the delay and no explanation, no reason much less any satisfactory explanation for the same. The application is filed without making any attempt to meet the cause of delay does not require indulgence from the Court. There is no alternative but to dismiss this application. Appeal is consequently abated and it is dismissed.

(D.G.DESHPANDE,J.)